

Comments/Suggestions Regarding NEI 04-01

Chapter/ Section #	Tracking #	NRC Action	Page #	Proposed Change
1.3.1	1.3.1-1	S	2	Change "safety issues" to "site description and safety assessment" to conform to regulations on what an early site permit addresses.
1.3.2	1.3.2-1	S	2	Change line "Rx design certifications are good for 15 years and are renewable" by adding "for 10 to 15 years" at the end of the sentence. To conform to regulations on how often and for what time period that design certifications may be renewed.
2.3	2.3-1	S	4	Suggest the term "COL information items" be changed to "COL action items." The appendices to 10 CFR Part 52 uses the term "action" items in the corresponding definition.
2.5	2.5-1	C	4	Delete "intended for deployment by the nuclear power plant (NPP) constructors." The Construction Inspection Program Information Management System (CIPIMS) is an NRC information system.
2.10	2.10-1	C	5	Change words "are adequate" to "adhere to regulatory requirements." The words "are adequate" are rather nebulous whereas "in accordance to regulations" is more concrete as to basis for acceptance.
2.14	2.14-1	C	5	Delete "may" and "additional detail or insight regarding the" and address ESPs.
2.8	2.8-1	C	5	Eliminate this term. There are two definitions of design control documents - generic and plant specific.
2.22	2.22-1	C	6	At end of last sentence add the words "or during review of COL [combined license] application." Operational programs will be reviewed both during the review of COL application and after its issuance.
2.23	2.23-1	C	7	Add "FSAR commitments" to list of items to which the quality assurance program (QAP) is performed with.
2.24	2.24-1	C	7	Remove this definition. The SAYGO process is in a state of flux and additionally it has no direct connection with the COL application process.
2.26	2.26-1	C	7	Delete reference to "Section IV.A.d" and insert reference to provision in Title 10 of the Code of Federal Regulations
2.30	2.30-1	C	8	NRC agrees with the first sentence of this definition but disagrees with the remainder of the definition.

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2.33	2.33-1	C	8	Either clarify the intent or delete the last sentence of this section. There should be no inconsistency between the Tier 1 Interface Requirements and the Tier-2 Interface Requirements.
3	3.0-1	S	9	Include in issuance of the safety evaluation report and an environmental impact statement the second 22-30 months immediately after submittal of the COLA. These two items will occur during that time period.
3	3.0-2	S	9	Include verification of operational programs, construction and installation testing, and pre-op testing under the third period of 24 to 48 months. These three items are scheduled to take place during that time period.
4.2.1.2	4.2.1.2-1	S	15	Paragraph 1: The fifth bullet should read “. . . principal location of partnership business . . .” The change is necessary to make the guidance correct.
4.2.1.2	4.2.1.2-2	C	15	Paragraph 2: The ninth bullet should read “. . . to carry out the activities . . .” The change is necessary to correct a typographical error.
4.2.1.2	4.2.1.2-3	S	15	Paragraph 2: The second indented bullet should read “Information sufficient to demonstrate the applicant has or possesses reasonable assurance of funding to cover estimated construction and fuel cycle costs.” The edits fill in a missing word and improve the bullet from an editorial standpoint.
4.2.1.2	4.2.1.2-4	S	15	Paragraph 3: The first bullet should end with “or owners.” The second bullet should begin with “The stockholders’ or owners’ financial ability to meet . . .” The edits are clarifying in nature and make the language consistent with the corresponding rule.
4.2.1.2	4.2.1.2-5	S	16	Paragraph 1: Line 4 should read “. . . a list of trade and news publications which would be appropriate . . .” The changes are necessary to fix typographical errors.
4.2.2	4.2.2-1	C	16	Paragraph 2: The first sentence should read “. . . must provide information that demonstrates either that the applicant(s) possesses or has reasonable assurance of obtaining the funds necessary . . .” The changes are necessary to correctly track the regulation.
4.2.2	4.2.2-2	C	17	Paragraph 3: The second sentence should be deleted or modified to reflect that, with respect to additional information needed, single-asset newly-formed entities are not distinguished under NRC regulations from newly-formed entities that may have assets other than a single nuclear plant. The changes are necessary to make the guidance consistent with the regulations.
4.2.2	4.2.2-3	S	17	Paragraph 1: At the end of the paragraph, the reference to NUREG-1577 should indicate the latest revision, i.e., Revision 1.

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4.2.3.1	4.2.3.1-1	C	17	Paragraph 2: The discussion should be refined to more clearly indicate which types of licensees may use exclusively sinking funds that accumulate funds over time, per 10 CFR 50.75(e)(1)(ii)(A) and (B). The change is necessary to improve the guidance and make it correct. Question: Is there a citation to support the last sentence in this paragraph?
4.2.3.2	4.2.3.2-1	C	17	Paragraph 1: In line 5, insert after "amount" the words "no less than that" and end the sentence after "Section 50.75." The rest of the sentence should be stricken, or at least rewritten to indicate that a certification may be higher than the formula amount if based on a higher site specific estimate, but not lower than the formula amount. These changes are necessary to improve the guidance and make it correct.
4.2.3	4.2.3-1	S	17	This paragraph should be deleted since it is speculation by NEI. This is a suggestion for improvement of the guidance.
4.2.3.2	4.2.3.2-2	C	18	Paragraph 2: The paragraph should be modified to more clearly indicate that the formula amount, which is the minimum amount for which funding assurance is required, must be adjusted using escalation factors for energy, labor, and waste burial costs. Some rephrasing would probably be helpful in clarifying the point that certification amounts for which funding assurance is required and being provided should not include non-radiological decommissioning expenses or spent fuel management expenses. These changes are necessary to improve the guidance.
4.2.3.2	4.2.3.2-3	C	18	Paragraph 3: The NRC staff does not agree with this proposed guidance. Updates to certification amounts should be provided annually by COL holders, but the actual financial instruments should not need to be tendered until fuel load is authorized by the NRC.
4.2.3.3	4.2.3.3-1	S	18	Paragraphs 1-3: The discussion in these paragraphs is not precise enough. More clarity is needed to explain that external sinking funds alone may be used by only two categories of licensees as described in 10 CFR 50.75(e)(1)(ii)(A) and (B). Technically, all licensees may use an external trust to accumulate funds over time, but the unfunded balance of the minimum amount required must be assured by another funding mechanism, such as a surety bond, unless the licensee is in one of the two categories cited above.
4.2.3.3	4.2.3.3-2	S	19	Paragraph 4: For the discussion on earnings credits, a citation to Regulatory Guide 1.159, Rev. 1, should be added, since this is the most informative document on earnings credits. This addition would improve the guidance.

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4.2.3.3	4.2.3.3-3	S	19	Paragraph 4: The guidance should more precisely indicate that up to a 60 year Safestor period may be used to calculate earnings credits provided a site specific estimate has been performed that specifically describes the period of Safestor planned. The period for earnings credits is limited to that Safestor period specified in the site specific estimate. This modification would correct the proposed guidance.
4.2.3.3	4.2.3.3-4	S	19	Paragraph 4: A licensee may use up to a 2 percent annual real rate of return to calculate earnings credits, unless the licensee has a rate setting authority that has specifically authorized a higher rate, in which case the higher rate may be used. The guidance (end of paragraph 4) should be modified to reflect this.
4.2.3.3	4.2.3.3-5	S	19	Paragraph 5: Reference should be made to Regulatory Guide 1.159, Rev. 1, in addition to NUREG-1577, Rev. 1. This would improve the guidance.
4.2.4	4.2.4-1	C	19	Paragraph 1: While Section 105c of the Atomic Energy Act of 1954, as amended, requires the NRC to perform certain antitrust reviews, the requirements governing the timing of the submission of antitrust information is set forth in 10 CFR 50.33a. The guidance should be clarified to reflect this. The change would correct the guidance.
4.2.4	4.2.4-3	C	20	Paragraph "Note" and associated subparagraphs: While there may have been legislative proposals in the past to amend the Atomic Energy Act to eliminate the NRC's antitrust review authority, such proposals have been unsuccessful thus far. Therefore, reference to the proposals does not appear to be relevant guidance. In addition, the proposed guidance lists reasons given by NEI to justify removal of the NRC's antitrust review authority. The NRC does not necessarily endorse or agree with certain of the reasons listed, and in some cases the NRC disagrees. Accordingly, at a minimum, the guidance should be clear that the positions stated are those of NEI; statements as to what the NRC has supported or endorsed should not be part of NEI's guidance document. The respective changes are necessary in order to make the guidance document correct and to improve the guidance.

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4.2.5	4.2.5-1	C	20	Paragraph 1: The “not inimical” finding at the end of this paragraph is not limited to situations where foreign ownership or control is an issue; it is a finding that must be made even where there is no foreign control issue raised. Since the context of the discussion is specifically foreign ownership restrictions, it would be more informative to state that the Commission will not issue a license to an applicant if the Commission knows or has reason to believe that the applicant is owned, controlled, or dominated by an alien, or by a foreign corporation or foreign government. The second sentence, relating to information that must be supplied may be somewhat misleading in that the statute focuses more broadly on foreign control over the applicant corporation or other entity. Certainly, if there is information relating to specific foreign control over management or the oversight of plant operations and support activities such information should be disclosed, in addition to providing all of the information set forth in NEI 04-01, Section 4.2.1.2, General Information. The changes are necessary to make the guidance consistent with the regulations and improve the guidance.
4.2.5	4.2.5-2	S	20	Paragraph 2: The NRC’s Final Standard Review Plan on Foreign Ownership, Control, or Domination (64 Fed. Reg. 52,355 et seq. (Sept. 28, 1999)) should be cited as the principal guidance document. There is nothing wrong with providing references to prior NRC licensing or license transfer actions that have involved some degree of foreign ownership, such as AmerGen, New England Power, and Pacificorp, as long as the guidance does not indicate that prior actions are necessarily bounding. The changes would improve the guidance.
4.2.5	4.2.5-3	C	20	Paragraph 3: The NRC staff does not believe that the discussion of proposed legislation is appropriate for this guidance document. At a minimum, the reference to the NRC’s support should be stricken because it is not clear exactly what aspects of the statement are supported by the NRC, if any. The changes are necessary to improve the guidance and make it accurate.
4.3.9.7	4.3.9.7-1	C	85	Paragraph 3 states: “The table identifies the COL Information items and ITAAC for Chapter 7.” Yet nothing in the table is labeled ITAAC or appears to be ITAAC. ITAAC should be identified for Chapter 7 in the COL application. The COL application needs to be more descriptive of the plant instrumentation and control (I&C) and the proposed ITAAC than what is provided in this Rev D Draft of NEI 04-01. The information is not sufficient for the NRC to make acceptability decisions.
4.3.9.8	4.3.9.8-1	C	90	Paragraph 3: Revise the sentence to read: “COL Information items and Tier 2 Interface items must be included in the generic DCD and addressed by the COL applicant.

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4.3.9.14.2	4.3.9.14.2-1	C	143	Table 4.3.9.14-1 - Item No. 14-2 under the Column "Comments", clarify that the procedures and specifications should be available 60 days prior to the performance of the pre-op and startup tests. R.G. 1.68 requires that test procedures be available 60 days prior to a test for NRC review.
4.3.9.14.2	4.3.9.14.2-2	C	144	Table 4.3.9.14-1 - Item No. 14-3 under the Column "Comments", the manual should be available 60 -90 days prior to the start of any testing so the NRC can review the process for development and control of test procedures. The NRC should have an opportunity to review the process for development and control of test procedures at least 60-90 days prior to the start of any testing. This would be done to verify the integrity of the process prior to initiating the testing. This ensures consistency with Comment 14.
4.3.9.14.2	4.3.9.14.2-3	S	146	Table 4.3.9.14-1 - The word "maintenance" under description and comments for Item 14-7 should be replaced with the word "retention." The DCD section is on the retention of records not on the maintenance of records.
4.3.9.14.3.2	4.3.9.14.3.2-1	C	148	Paragraph 2: The site-specific inspections, tests, analyses, and inspection acceptance criteria (ITAAC) should verify the whole facility not just safety-related systems or functions.
4.3.9.14.3.2	4.3.9.14.3.2-2	C	149	Paragraph 2 on this page, last sentence: The Tier 2 interface requirements will also be assured by licensee's Corrective Action Program. Clarify that the QAP identifies problems and the CAP corrects those problems and any future such problems.
4.3.9.14.3.2	4.3.9.14.3.2-3	C	150	Site specific ITAAC should verify the whole facility, so even for AP1000, there should be some site specific ITAAC. This was discussed in a public meeting on February 2, 2005, between the NRC and NEI.
5.1.1	5.1.1-1	C	261	Those operational programs required prior to fuel load and after fuel load prior to operations should be stated, i.e., security & safeguards, maintenance, fire protection, radiological controls, operations, and surveillance to be consistent with the detail provided for Fitness for Duty program. Regulations require these programs to control access to nuclear plant sites, maintenance on equipment being installed, prevent fires, control access to nuclear material, operate the plant, and for surveillance on plant equipment.
5.2	5.2-1	C	263	Paragraph 1, 4th sentence: The detailed design information should be available about 1 year prior to COL. The first of a kind (FOAK) inspections will begin about 1 year prior to COL issuance.

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5.2	5.2-2	C	263	Paragraph 3, 3rd sentence: Do not refer to the inspection documents at this time since that part of the program is still under development. Construction Inspection Program's inspections for engineering design verification have not been formally issued and should not be referenced here.
5.2	5.2-3	C	263	Paragraph 3, 1st sentence: Do not refer to IMC 2502 but just to the Construction Inspection Program. Construction Inspection Program is under development and its individual inspection documents should not be referenced at this time.
5.3.2	5.3.2-1	C	265	Paragraph 1, 2nd sentence: ITAAC completed pre-COL would not be subject to 52.99 but rather would be part of safety evaluation report and final safety analysis report as an input to COL discussion.

S - Suggested change to improve guidance.

C - Comment NRC Staff believes needed to make guidance reflective of NRC regulations and guidance.